

REMARKS

Claims 7-12 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for the reasons noted in the official action. The subject matter of the rejected claims is revised and rewritten as new claims 13-22 which are now believed to particularly point out and distinctly claim the subject matter regarded as the invention, thereby overcoming all of the raised § 112, second paragraph, rejections.

Claims 7 and 10-11 are rejected, under 35 U.S.C. § 102(b), as being anticipated by Huber '050. The Applicant acknowledges and respectfully traverses the raised anticipatory rejection in view of the following remarks.

Huber '050 relates to a power shift reversing gearbox and includes an input shaft 3, an output shaft 23 and five counter shafts 5, 6, 7, 8, 9 each having a counter shaft unit. The counter shaft units of the five counter shafts 5, 6, 7, 8, 9 engage with one another and the input and output shafts 3, 23 in a different configuration and arrangement from the presently claimed invention. The arrangement and engagement of the counter shafts, as specifically taught and disclosed by Huber '050, is quite different than that of the present application. In particular, as can be seen in the FIGS. 2-4 of Huber '050, the drive shaft 3 engages with the units of at least three other counter shafts, namely, unit K4 of the counter shaft 9, unit KV of the counter shaft 6 and unit KR of the counter shaft 5. In addition, all of the counter shafts 5, 6, 7, 8, 9 engage, via their counter shaft unit, at least two other shafts of the input 3, output 23 and the counter shafts 5, 6, 7, 8, 9. This is vastly different than the claims of the limitation. The Applicant asserts that none of the applied references teach the lay out and engagement of the power shift transmission as currently claimed.

In further distinction Huber '050 does not teach a shaft having first and second fixed gear wheels that is only directly drivingly engagable with the gear unit of the drive shaft 3, via the second fixed gear wheel 20', and the gear unit of the first counter shaft 5, via the first fixed gear wheel 20.

As shown in FIGS. 9, 10 and 11 of the pending application and as now clarified in the newly entered claims, the drive shaft 3 of the inventive power shift transmission only drivingly engages with two counter shafts, namely, counter shaft 5 and counter shaft 17—not three

units/shafts as specifically disclosed and taught by Huber '050. Further, the hollow shaft 3 of Huber '050 only supports a fixed gear 4 and thus Huber '050 does not teach, suggest, disclose or hint at a drive shaft 3 having a gear unit comprising at least one fixed gear wheel, an idler gear wheel and a shift clutch for coupling the idler gear wheel to the drive shaft 3, as presently claimed. In addition, the counter shaft 7 only drivingly engages a single shaft, namely, the output shaft 4 and such arrangement is clearly not taught, suggested, disclosed or in any way hinted at by Huber '050. Lastly, as recited in claim 20, the PTO is accommodated within the drive shaft 3 and not off a hollow shaft surround the drive shaft as disclosed and taught by Huber '050.

In order to emphasize the above noted distinctions between the presently claimed invention and the applied art, each of the independent claims 13 and 20 of this application now recite the inventive feature of "the gear unit of the drive shaft (3) is only directly drivingly engagable with the gear unit of the first counter shaft (5) and the gear unit of the fourth counter shaft (17); the gear unit of the first counter shaft (5) is only directly drivingly engagable with the gear unit of the drive shaft (3), the gear unit of the fourth counter shaft (17) and the gear unit of the second counter shaft (6); the gear unit of the second counter shaft (6) is only directly drivingly engagable with the gear unit of the first counter shaft (5) and the gear unit of the output shaft (4); the gear unit of the third counter shaft (7) is only directly drivingly engagable with the gear unit of the output shaft (4); the gear unit of the fourth counter shaft (17) is only directly drivingly engagable with the gear unit of the drive shaft (3) and the gear unit of the first counter shaft (5); and the gear unit of the output shaft (4) is directly drivingly engagable with at least the gear unit of the second counter shaft (6) and the gear unit of the third counter shaft (7)." Further, new independent claim 20 recites the features of a "multi-geared power shift transmission of a telescopic handler and an excavator loader . . . and an auxiliary drive (16), for driving additional equipment, extends through the drive shaft (3)". Additionally new independent claim 25 recites the features of "the gear unit of the drive shaft (3) is only directly drivingly engagable with the gear unit of the first counter shaft (5, 6, 7) and the gear unit of the subsequent counter shaft (17) . . . the gear unit of the subsequent counter shaft (17) is only directly drivingly engagable with the gear unit of the drive shaft (3) and the gear unit of

the first counter shaft (5, 6, 7)". Such features are believed to clearly and patentably distinguish the presently claimed invention from all of the art of record, including the applied art.

Claims 8 and 12 are then rejected, under 35 U.S.C. § 103(a), as being unpatentable over Huber `050 as applied to claim 7 and further in view of Lamela `399 while claim 9 is rejected, under 35 U.S.C. § 103(a), as being unpatentable over Huber `050, as applied to claim 7, and further in view of McAskill `475. The Applicant acknowledges and respectfully traverses both of the raised obviousness rejections in view of the above amendments and the following remarks.

The Applicant acknowledges that the additional references of Lamela `399 and McAskill `475 may arguably relate to the features indicated by the Examiner in the official action. Nevertheless, the Applicant respectfully submits that the combination of the base reference with this additional art still fails to in any way teach, suggest or disclose the above distinguishing features of the presently claimed invention. As such, all of the raised rejections should be withdrawn at this time in view of the above amendments and remarks.

The drawings are amended, per the attached Submission, to overcome a few noted informalities contained therein. New Replacement Sheets of formal drawing(s), accompany this Submission, incorporate all of the requested drawing amendment(s). If any further amendment to the drawings is believed necessary, the Examiner is invited to contact the undersigned representative of the Applicant to discuss the same.

The above amended paragraphs of the specification now provide consistence with the entered drawing amendments. The undersigned avers that the amended paragraphs of the specification do not contain any new subject matter.

If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised rejections should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejection(s) or applicability of the Huber `050, Lamela `399 and/or McAskill `475 references, the Applicant respectfully requests

10/561,693

the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In view of the foregoing, it is respectfully submitted that the raised rejection(s) should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



Michael J. Bujold, Reg. No. 32,018
Customer No. 020210
Davis Bujold & Daniels, P.L.L.C.
112 Pleasant Street
Concord, NH 03301-2931
Telephone 603-226-7490
Facsimile 603-226-7499
E-mail: patent@davisandbujold.com